United Nations A/HRC/39/NGO/133

General Assembly

Distr.: General
3 September 2018

English only

Human Rights Council
Thirty-ninth session
10-28 September 2018
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al-Haq, Law in the Service of Man, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14480(E)
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The UN Database: A Tool to Counter Persistent Corporate Human Rights Abuses in the Occupied Palestinian Territory

On 20 April 2016, the United Nations (UN) Human Rights Council adopted Resolution 31/36 titled 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan,' which allocates resources to establish and maintain a detailed database listing businesses operating and/or affiliated in or with illegal Israeli settlements constructed in the territories occupied by Israel since 4 June 1967, encompassing the West Bank, including East Jerusalem, the Gaza Strip, and the occupied Syrian Golan.1 The database established pursuant to Human Rights Council Resolution 31/36 (hereinafter the UN Database) was first expected to be released by the Office of the High Commissioner for Human Rights (OHCHR) in February 2017, but continued to be delayed. In January 2018 a report was issued by OHCHR which described the methodology used, and also noted that a number of companies had been contacted. However, to this date, the publication of the UN Database, with a list of company names, continues to be stalled,2 including as a result of reported pressure exerted on OHCHR by Israel and the United States of America.3

Israeli and multinational businesses operating in and/or with illegal Israeli settlements in the occupied Palestinian territory (oPt)4 contribute to and profit from the commission of serious human rights violations, as well as grave breaches of the Fourth Geneva Convention, against the occupied Palestinian population. Israel's settlement enterprise is perpetrated by unlawful means and methods, including: unlawful land appropriation; the exploitation of natural resources, including water apartheid;5 the obstruction of the Palestinian right to development; and severe restrictions imposed on Palestinians' freedom of movement.6 Both state and non-state actors contribute to these abuses.

There are currently more than 230 illegal Israeli settlements and outposts in the occupied West Bank, including in East Jerusalem, where hundreds of corporations operate and/or conduct activities, substantially profiting from a situation recognised as unlawful by the international community. The inextricable link between settlements, corporations, and human rights abuses against the occupied Palestinian population has been established and reiterated by OHCHR. In January 2018, it noted:

> "Businesses play a key role in facilitating the overall settlement enterprise, contributing to Israel's confiscation of land and the transfer of its population through commercial development. Some are directly involved in the confiscation of land by carrying out demolitions that make way for settlement residential communities or associated infrastructure, or by financing or executing settlement construction itself. Others provide services that ensure the sustainability of residential settlement communities, such as transport services that connect the settlements to Israel proper, tourism activities that contribute to the profitability of the settlements, and telecommunication services."7

As briefly presented in this submission, Israeli and multinational business enterprises will continue to profit from the unlawful exploitation of natural resources and land in the oPt and contribute to Israel's unlawful settler-colonial enterprise and prolonged occupation – at the expense of the occupied Palestinian population's welfare, livelihoods and

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1 UN Human Rights Council, Resolution 31/36 (2016), UN Doc No. A/HRC/RES/31/36.

2 Joint Written Statement submitted by Al-Haq and Badil, Seven Decades of Impunity: The United Nations Human Rights Council Must Hold Israel to Account, 25 May 2018, A/HRC/38/NGO/119; and Joint Written Statement submitted by Al-Haq and Cairo Institute for Human Rights Studies, Israeli Occcupation Further Entrenched with Business Operations: Update on Wineries, Banks, Fisheries and Other Industries in the Occupied Palestinian Territories, 2 February 2018, A/HRC/37/NGO/99.

3 *See*, for example, Jerusalem Post, U.N. Could Update Settlement Blacklist Prior to September, 19 June 2018, available at: https://www.jpost.com/Arab-Israeli-Conflict/UN-to-renew-blacklist-of-companies-working-in-West-Bank-east-Jerusalem-560307

4 Israeli settlements are illegal under international law. *See*, for example, UN Security Council, Resolution 2334 (2016), UN Doc No. S/RES/2334 (2016), 23 December 2016.

5 "Due to the severe water cuts and the limited coverage by the water network in the OPT, many communities have had to resort to purchasing expensive water delivered by water tankers. This form of supply increases the price of water to an average of eight times or more what Israeli settlers pay." *See* Al-Haq, "Water For One People Only: Discriminatory Access and 'Water-Apartheid' in the OPT" (2013), available at: http://www.alhaq.org/publications/publications-index/item/water-for-one-people-only-discriminatory-access-and-water-apartheid-in-the-opt

6 *See* UN General Assembly, UN Doc No. A/70/82–E/2015/13, 8 May 2015.

7 UN Human Rights Council, UN Doc No. A/HRC/37/39, 1 Feb 2018, para. 46.

economy. The international community must fulfil its obligations and put an end to such international crimes; Member States can foster a tool for accountability by supporting the UN Database.

1. Multinational Corporations in illegal Israeli settlements

Multinational corporations HeidelbergCement AG (headquartered in Germany),8 through its subsidiary Hanson Israel, is actively operating in Israeli settlements in the occupied West Bank. For example, the Nahal Raba Quarry, currently owned by HeidelbergCement through its subsidiary Hanson Israel, was established in 1983 west of the Palestinian village of Al-Zawiya in Salfit governorate in the West Bank. The Quarry covers at least 600 dunums of Palestinian land that were appropriated by Israel in the 1980s and declared as 'State land'. Hanson Israel extracts stone and gravel from occupied Palestinian territory, which are manufactured and then sold in the Israeli market and settlements in the West Bank.

Corporations in the West Bank involved in the quarrying sector, such as Hanson Israel, pay millions in royalties and taxes to Israeli settler councils and the Israeli Civil Administration (ICA),9 directly contributing to the expansion of illegal settlements and the illegal transfer of Israel's civilian population into the oPt. Between 2009 and 2015, the ICA received approximately USD 78.4 million worth of royalties from quarries in Area C.10 It should be noted that in 2011, the Israeli High Court ruled to justify and allow for the exploitation and pillage of natural resources in the oPt,11 granting Israeli and multinational corporations the right to quarry.

2. Israeli Corporations in illegal Israeli Settlements

Israeli corporations operating in Israeli settlements systematically exploit Palestinian natural resources, including land and water, to produce products and agricultural goods that are often exported abroad and to the Israeli market. Revenues from exports of such businesses help support, maintain, and expand Israeli settlements; this is exemplified in the occupied Jordan Valley. For example, Zorganika, an Israeli agricultural company producing bio-organic Medjoul (Mejhoul) dates, is located in the Jordan Valley and on 1,000 dunums of privately owned Palestinian land that was confiscated in 1967 by Israeli Military Order No. 287 of 1967.12 The corporation exports its produce to Europe and the United States of America under the pretence of being produced in Israel. Amongst others, Zorganika deliberately misinforms consumers of its products' origin. In a recent attempt by the Palestinian landowners to regain access to their confiscated land, the Israeli Supreme Court recognized the property rights of the Palestinian owners but failed to allow them access to their land.13

3. The Importance of the UN Database

In accordance with the UN Guiding Principles on Business and Human Rights (hereinafter UNGPs), businesses have an obligation to respect internationally recognized human rights and to conduct human rights due diligence to assess actual and potential human rights risks during their operations at home and abroad. States maintain a primary role in the protection against human rights abuses, including by third parties within their territory and/or jurisdiction, such as business enterprises.

The UN Database complements the UNGPs by serving as a mechanism for prevention as well as for accountability. Publishing the UN Database will encourage transparency, "enhanced" human rights due diligence, and corporate respect for human rights in the oPt. These principles have been reiterated and supported by States, both in their National Action Plans, as well as in their practices as related to other conflict-affected areas.

The publication of the UN Database, as well as business responses to OHCHR, will facilitate transparency for companies, states, and consumers alike. Businesses have an obligation to indicate and make public accurate information

8 *See*, for example, communication between Al-Haq and HeidelbergCement AG: Al-Haq, "Business and Human Rights Resource Center Al-Haq Response to HeidelbergCement" (10 October 2017), available at: http://www.alhaq.org/advocacy/targets/united-nations/1147-business-and-human-rights-resource-center-al-haq-response-to-heidelbergcement.

9 Human Rights Watch, "Occupation Inc.: How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights" (19 January 2016), available at: https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian.

10 Yesh Din, The Great Drain: Israeli Quarries in the West Bank: High Court Sanctioned Institutional Theft, 14 September 2017, available at: https://www.yesh-din.org/en/great-drain-israeli-quarries-west-bank-high-court-sanctioned-institutionalized-theft/

11 Israeli High Court of Justice, Judgment, HCJ 2164/09.

12 Israeli Military Order No. 287 (1967).

13 Israeli Supreme Court Decision No. 6427/13.

regarding their production chain line, the origin of their products, and their affiliations at home and abroad, to both consumers and investors. The Database can thus be used as tool for businesses when evaluating their business activities and relationships. The publication of the UN Database can also enhance states' regulatory functions, by facilitating coherent and consistent domestic policies, in line with their obligations under international law.

Maintaining and updating the UN Database as a dynamic mechanism to document, report and engage with companies, as well as their home states, requires that states support the UN Database, including through cooperating with the mechanism and allocating resources to maintain it. The importance of the UN Database, both for the oPt as well as a blueprint for other contexts, cannot be underestimated. States, who have already expressed their support of the UNGPs, must continue to uphold the rights of indigenous peoples and populations against corporate abuse, and must not turn a blind eye to businesses operating in and with Israeli settlements.